

The Research Review is a publication of the Research Division of the Tennessee House of Representatives

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THE FINANCE COMMITTEE'S BUDGET HEARINGS CONTINUE:
DEPT. OF CORRECTION • DEPT. OF COMMERCE & INSURANCE
OFFICE OF THE ATTORNEY GENERAL & REPORTER
THE ADMINISTRATIVE OFFICE OF THE COURTS
TN DISTRICT ATTORNEYS GENERAL CONFERENCE
DISTRICT PUBLIC DEFENDERS CONFERENCE
(summaries follow committee reports)

House Committee Activity: April 1 - 4, 2002



House Speaker Naifeh joins (from left) Representatives Armstrong, Hargrove and Lewis during a recent Finance Committee budget hearing. The House met in session only on Wednesday of this week, but held a full schedule of meetings and budget hearings. Several of the subcommittees announced they were holding their last and final meetings for the year either this week or the next.

Agriculture

Ryan Swindell

On Tuesday the full **Agriculture Committee** met with one bill on the calendar. **HB1716** (animals and animal cruelty) by Rep. McMillan was rolled one week. After the calendar the Murray State University School of

Agriculture/U.S. Smokeless Tobacco Leadership Program joined the committee for questions and comments.

The **Marketing and Commodities Subcommittee** is closed.

The **Agriculture Resource and Industry Subcommittee** is closed.

Children & Family Affairs

Shannon Romain

The **Children and Family Affairs full committee** reviewed and referred two bills out of the committee this week. **HB 0240** by Rep. Patton was referred to Calendar and Rules. As amended, the bill permits the courts to consider a parent's refusal to attend the educational sessions required under the parenting plan as evidence of a parent's lack of good faith. The parent may also be held in contempt for in-attendance. **HB 2471** by Rep. Deberry was also referred to Calendar and Rules. The bill specifies that it must be shown that in the four months prior to a hearing on the termination of parental rights, a parent's failure to visit or support their child was "with willful intent".

HB 2887 by Rep. Scroggs was reviewed and referred to Finance, Ways and Means. The bill permits a juvenile who has been adjudicated for the rape of a child to be detained in state custody for a definite period of time. It is estimated that state expenditures for this offense may increase by less than \$100,000 as a result of the change in the law.

In light of the controversy generated by HB 2476 and HB 2338, the shared parenting bills by Rep. Patton and Rep. Bowers respectively, the committee heard testimony from opponents and proponents on both sides of the issue. Judges from Davidson and Hamilton county were opposed to HB2476. They testified, in addition to Linda O'Neal of the Tennessee Commission on Children and Youth and Joan Archer of the Tennessee Council of Juvenile and Family Court Judges that the parenting plan was had not been given adequate time to work and that the removal of judicial discretion in favor of a rebuttable presumption that joint physical and legal custody was in the best interest of child would have a negative impact on custody cases across the state. A representative from DADS, a special interest group that promotes the rights of noncustodial fathers, testified that the shared parenting bill was necessary because it represented a "doctrinal change" that "takes... children out of the conflict of divorce". A motion to amend the bill failed on a 5-5 vote. At the request of the sponsor the bill was deferred for one week to allow members to review potential amendments. Rep. Bowers took HB 2338 off notice.

The **Family Justice subcommittee** did not meet this week. The final meeting is scheduled for next Tuesday. The **Domestic Relations Subcommittee** is now closed subject to the call of the chair. All bills on the calendar have been taken off notice.

Commerce

Chris McGrew

The **House Commerce Committee** met Tuesday with thirteen bills on the calendar. The committee only heard seven bills and moved the remainder of the bills until next week. **HB 2696** (Rep. Garrett) would authorize owners of property on which fire protection sprinkler systems are installed to perform simple maintenance on sprinkler systems. **HB 2286** (Rep. Kisber) would require



Reps. Walker, Ferguson and Lewis in the Commerce Committee meeting.

annual actuarial study to address provider reimbursement rates. **HB 2397** (Rep. Rinks) would increase electrical inspection fees in order to pay inspectors.

The **Small Business Subcommittee** had its final meeting on Tuesday. The committee considered only one bill on the calendar. **HB 3051** (Rep. Shaw) addresses the renewal requirements for affiliated brokers. It was moved on to full committee.

The **Utilities and Banking Subcommittee** moved one bill on to full committee. **HB 3178** (Rep. Fitzhugh) would place certain requirements and restrictions on mortgage and home equity loans.

The **Industrial Impact Subcommittee** had nine bills on the calendar. The committee only moved one bill to full committee. **HB 2067** (Rep. Odom) as amended would authorize the Comptroller, in consultation with TennCare Bureau and TennCare Oversight, to issue an RFP with respect to TennCare eligibility verification.

Conservation & Environment

Greg E. Adkins

The full **Environment Committee** on Wednesday, April 03, 2002 and considered four bills. **HB 556** by Rep. McDonald was rolled one week (the bill would create an

independent park agency to oversee the state park system).

HB 1311 by Rep. Arriola was rolled to the last full committee calendar (the bill enacts the "Tennessee Industrial Chipmill Facility Impact Review and Taxpayer Protection Act of 2001"). **HB 1595** by Rep. Bittle passed to FW&M as amended. The amended bill would partly exempt the legislature from the process of fee increases for TWRA. Currently, only the legislature can increase hunting and fishing fees. The amended bill would allow fees to be increased by rule and regulation within the agency. There would not be any direct legislative oversight of TWRA except review through the House & Senate Government Operations Committees and the House & Senate Environment Committees. **HJR 623** by Rep. Cooper passed to FW&M; the resolution creates a special joint legislative committee to study the feasibility of a residential or summer camp for economically disadvantaged children at T.O. Fuller State Park.

The **Environment Subcommittee** met on Tuesday, April 2, 2002 and considered six bills. **HB 2798** by Rep. Bunch was rolled one week. **HB 2996** by Rep. McDonald passed to full committee as amended. The amended bill would allow one water district in Rep. McDonald's district to be governed by an elected five-member board. **HB 2960** by Rep. Fitzhugh passed to full committee as amended. The amended bill gives broad authority to the Commissioner of TDEC to study and promulgate rules and regulations for new sewer system technologies. **HB 2902** by Rep. McCord passed to full committee as amended; the amended bill would allow TDEC to promulgate rules that authorize the technical secretary to issue air quality permits. The issuance of these permits shall not repeal any rules of the air board. If new EPA rules roll back federal requirements the legislature shall determine whether Tennessee should have a more restrictive rule than the federal rule. **HB 3097** by Rep. McCord passed to full committee as amended. The amended bill would authorize TWRA to promulgate rules and regulations to permit a licensed trapper to release small game animals in counties contiguous to the counties where the animals were trapped. **SJR 576** by Rep. Givens (Ramsey) passed to full committee; the resolution expresses support for the Division of Forestry's commitment to sustainable forest management, and commends the division for attaining certification from the Forest Stewardship Council and for meeting preliminary requirements to proceed with the certification process under the Sustainable Forestry Initiative.

Consumer & Employee Affairs

Shannon Romain

In the **Consumer and Employee Affairs full committee** **HB 2276** by Rep. Kisber was reviewed and referred to Calendar and Rules. The committee adopted two amendments to the bill. House Amendment #1 permits an injured employee to sue the second injury fund and requires the advisory council on workers' compensation to report on a) activities and outcomes related to the fraud acts and b) its findings and recommendations regarding the control of systemic medical costs. The amendment permits the Commissioner of Commerce and Insurance to determine if, among other things, membership to the assigned risk pool for the prior calendar year was greater than 15% of the eligible employer market. It also allows the advisory council 90 days to send its comments and recommendations on the commissioner's report back to the commissioner who is then required to take appropriate action. Amendment #2 to the bill requires the council to study and report on the impact of present law on the payment of certain claims by health care providers provided to employees. Along with the report, the council may suggest legislation to address its findings. Finally the amendment, permits the commissioner or an appointed agency member to revoke a certificate of compliance with insurance provisions provided an employer had been given 30 days notice and an opportunity for a hearing.

The remaining bills on the calendar, **HB 1829** by Chairman West, **HB 2366** by Rep. Bowers and House bills 1757, 1758 and 1759 by Rep. Briley were all deferred for one week.

The **Consumer Affairs Subcommittee** held it's final scheduled meeting. **HB 2485** by Rep. Buttry was reviewed and referred to the full committee. The bill requires a permit and a background check for traveling sales crews, which are defined as individuals who are employed as a sales person or in related work and who are intended to be absent overnight from their primary place of business. It is not intended to address persons traveling to trade shows, immediate family members of a traveling sales crew, employer or persons such as legitimate charitable fundraising organizations, children fundraising for school or child oriented programs, etc. Under the legislation, traveling sales crew members would be required to undergo a TBI background check, identify and verify any vehicles to be used in for conducting sales, and specify the dates and locations where such sales shall be conducted. Any violation of the provisions set forth in the bill would be deemed and unfair or deceptive practice and punishable as a Class B misdemeanor.

All other bills on the calendar were delayed subject to the call of the chair.

Education

Jessica Peccolo

Full Committee

HJR 0644 (DeBerry, L) was the only piece of legislation to pass out of the Education Committee this week. The resolution asks the Education Oversight Committee to study the possibility and benefits of offering classes to help teachers work with dyslexic students in their classrooms. It moves to Calendar and Rules.

The majority of the time this week was spent on a discussion about **HB 2650** (Turner, B). It makes it permissible for schools to form a partnership with local law enforcement agencies to work together to lower truancy rates. Memphis and Knoxville are both currently using such programs. This bill would allow any school system the option of developing a similar program. It would be up to local school boards to decide whether or not to participate and to design the program. Charles Love, the immediate past president of the Hamilton County School Board spoke in favor of the legislation. Mr. Love cited a 15% drop out rate and a 92% average daily attendance in Hamilton County schools as evidence that a truancy prevention program is needed. After much discussion the bill was rolled until next week, at which time there will be more testimony and discussion. Due to the lack of time, the remaining bills on the Education calendar this week were rolled. Those bills were: **HB 1706**, **HB 2316**, **HB 2721**, **HB 2901**, **HB 1131**, **HB 3136**, and **HB 2086**.

K-12 Subcommittee

K-12 Subcommittee met on Wednesday morning to take up the final calendar. Finance Chairman Kisber introduced an amendment to **HB 2301**. The amendment allows the Department of Education to establish a contract with Miss Tennessee to continue the drug free schools program. The contract would be subject to federal funding as the program is currently funded with federal dollars. The bill was passed as amended to the full Education Committee.

HB 2549 (Davis, D) mandates the daily recitation of the pledge of allegiance in all public school classrooms. The

bill allows for students and parents of students who object to saying the pledge to opt out. Those students would be allowed to sit or stand silently while their classmates recite the pledge. Representative Larry Turner proposed an amendment saying that LEA's must notify parents, students, and teachers of their right to opt out of the recitation. A second amendment brought by the bill's sponsor clarifies that teachers also have the right to opt out of the pledge. Both amendments were adopted and the bill was passed to full committee on a roll call vote of 7 to 5

Discussion began on **HB 2319** (Cooper), which requires LEA's to report the number of students on psychotropic drugs to the Department of Education. The Commissioner of Education would then be required to share the report to the Education Oversight Committee and both Education Committees. Several representatives expressed concern with the bill saying that it might be a violation of the students' privacy. A representative from the department testified that the department already conducts similar inquiries and could include the specific questions about psychotropic drugs in the survey they are currently using. The committee ran out of time before they were able to vote on the bill.

All other bills on the calendar were rolled with the exception of **HB 2458** (Davidson), which was taken off notice. The chair assured members and sponsors of bills on the calendar that all the bills would be heard. Committee members and sponsors will be notified when the time of the next meeting is set.

Higher Education Subcommittee

The only piece of legislation on the final calendar of the Higher Education Subcommittee was **HJR 0592** (Phillips). The resolution names the Tennessee Technology Center at Shelbyville the "James L. Bomar, Jr. Technology Center". It was passed to full committee. **The Higher Education Subcommittee is now closed.**

Finance, Ways & Means

Cathy Higgins

House Finance, Ways and Means Committee **April 2, 2002**

The full committee had 21 bills on calendar this week. All bills were referred to Calendar and Rules.

- **HB 2119 (Fowlkes)** specifies that there is no limit in the amount that can be contributed to the BEST Program.
- **HB 2918 (Brooks)** amends the code giving the trial judge sole discretion in making a determination to sequester jurors in any criminal prosecution, except for those cases involving the death sentence.
- **HB 2506 (Brown)** amends the code to permit a city that constructed qualifying projects under the Convention Center and Tourism Development Financing Act of 1998 levy a hotel occupancy tax even if the county levies the tax.
- **HB 2484 (Bittle)** provides a highway sign memorial for trooper John Robert Davies who died in the line of duty. As amended, it adds a new section to the Code that the cost of signage and marking of an interstate, etc., as a memorial highway for a state law enforcement officer killed in the line of duty shall be paid from the highway fund, subject to appropriation by the General Assembly.
- **HB 2271 (Bowers)** enacts the Tennessee Emergency Health Powers Act.
- **HB 1724 (DeBerry, L)** as amended in Committee, permits the exemption for religious, charitable, scientific, or education institutions to be effective up to 24 months earlier than the date of application in certain circumstances. Also adds a provision specifying that property owned by a public television station shall be exempt from property taxes if certain criteria are met.
- **HB 2929 (DeBerry, L)** applicable to Shelby County adds language that an industrial development corporation may not negotiate any payment in lieu of tax agreement for less than the county ad valorem taxes unless certain criteria is met.
- **HB 1818 (Givens)** from the Agriculture Committee is the Department of Agriculture's fee bill.
- **HB 3015 (Kisber)** from Health and Human Resources Committee. The bill requires the Commission on Aging to initiate an outreach prescription program for Medicare-eligible Tennesseans.
- **HB 2277 (Kisber)** permits the Tennessee Regulatory Authority to regulate the transmission of unsolicited faxes.
- **HB 3028 (Kisber)** from Commerce includes telephone cooperatives in the Telecommunications Ad Valorem Tax Reduction Fund.
- **HB 2882 (McMillan)** is referred to as the "puppy mill bill."
- **HB 2128 (McMillan)** requires that \$12.50 court cost collected for the purpose of defraying the cost of legal representation of indigent criminal defendants in multi-county judicial districts be remitted to the executive director of the public defender conference

for use as supplemental funding for the public defender in such multi-county judicial district.

- **HB 2069 (Odom)** changes the names of Nashville State Tech to Nashville State Technical Community College. As amended in committee, requires the one-time cost of the conversion to be absorbed by institutional funds. One-time costs include signs, stationary, etc.
- **HB 2227 (Overbey)** amends the code relative to property taxes and tax relief for disabled veterans. Current code states that a veteran is disabled if the veterans acquired 100% disability resulting from being a prisoner of war for at least 5 months or more. This bill changes the 5 months to 30 days.
- **HB 2907 (Scroggs)** from Children and Families Affairs Committee regarding child support notification was amended to where the cost of the bill will come from existing resources within the Department of Children's Services.
- **HB 2592 (West)** provides for educational training of private security certified trainers, qualifying agents, and qualifying managers.
- There were **four bills** honoring local citizens with a highway sign. Local governments will absorb the cost of the signs.

Budget Subcommittee Meeting **April 3, 2002**

Budget Sub had 31 bills on calendar this week. Several were rolled to future calendars. The following bills were referred to Full Committee.

HB 896 (Buck) from Judiciary and the Council on Pension and Insurance creates an incentive for retired judge or judges close to retirement to participate in the senior judge program.

HB 3131 (Ridgeway) amends the code relative to property taxes and tax relief for disabled veterans. Changes the wording in the statute for blindness from "total blindness" to "legal blindness."

HB 2693 (Head) from Transportation increases the height of manufactured homes requiring special routing for movement as well as the permit period.

HB 2672 (Jones, U) from State and Local. The bill was amended to require TACIR to study the effect on funding of local public education when property taxes or in lieu of tax payment are abated or reduced. TACIR will conduct the study within existing resources.

HB 2280 (Kisber) from Health and Human Resources, authorizes deduction from a nursing home resident's income for mobile dental services provided to eligible recipients.

HB 2883 (Kisber) as amended specifies that in the definition of "tangible personal property" signals that are broadcast over the airwaves is not part of this definition. This amendment prevents the loss of over \$1 million in state revenues.

HB 2893 (Sargent) from Commerce requires that Canadian security broker-dealers wanting to conduct business in Tennessee must file an annual notice with the Commissioner of Commerce and Insurance.

The Finance Committee's Budget Hearings from last week are summarized on page 11.

Government Operations

Ryan Swindell

This week the **Government Operations Committee** met on Tuesday with twelve bills to consider, of which six were reported out. **HB2813** by Rep. Todd was rolled to the next to last calendar of this session. It would require any amendment or repeal of rule, regulation, bylaw, policy, or procedure of the Tennessee Victims Coalition be sent to and received by the State Treasurer before it becomes effective. **HB2819** by Rep. Lewis enacts the Insurance Producer Licensing Model Act; it was taken off notice. **HB724** by Rep. Buttry, which would enact the Comprehensive TennCare Reform and Health Insurance Program of 2001, was also taken off notice. **HB2405** by Rep. Ronnie Davis was rolled for one week. This bill would prohibit the lowering of 22 lake reservoirs more than 30 feet of full pool level. **HB2755** by Chairman Kernell, which would extend the Tennessee Community Resource Board for six years, was rolled one week. Chairman Kernell, also took **HB760** off notice which would create the West Tennessee Seismic Safety Commission to study ways to mitigate earthquake damage in West Tennessee. The bills that were reported out and are listed below along with the action taken by the committee:

HB 3002 by Scroggs – Assesses insurance companies and HMOs for certain costs related to uninsurables; adds Medicaid specific conflict of interest statute; raises taxes on tobacco and alcoholic beverages and dedicates revenue to TennCare; and requires TennCare bureau to contract with another state agency to do eligibility determinations for expansion population – *Reviewed and Referred to Commerce.*

HB 3100 by McCord – Enacts the "Tennessee Off-Highway Motor Vehicle Act" – *Reviewed and Referred to Conservation & Environment.*

HB 2606 by West – Changes administration of private protective services from Commissioner of Commerce and Insurance to Private Protective Services Commission – *Reviewed and Referred to Commerce* with one amendment. The amendment would fill three vacancies on the existing Private Investigator and Polygraph Commission with 1) a member of the private protective services industry, 2) a member from the law enforcement community, and 3) a general citizen. Regulation would be by the Private Investigator & Polygraph Private Protective Services Commission.

HB 2839 by Arriola – Establishes certain conflict of interest requirements on members of Health Facilities Commission and requires statement of reasons for Commission decision – *Reviewed and Referred to Health & Human Resources.*

HB 2228 by DeBerry L. – Transfers Commission on Aging and Disabilities to Department of Human Services – *Reviewed and Referred to Health & Human Resources.*

HB 2737 by Kernell – Extends the Tennessee Advisory Committee for Acupuncture for one year – *Recommended to Calendar & Rules.*

Health & Human Resources

Judy Narramore

The **Health & Human Resources Committee** met at noon on Tuesday with nine pieces of legislation to consider. In addition, Deputy Commissioner Sandra

Sturgis presented an overview of the Division of Mental Retardation Services.

HR 0222 by Rep. Kisber concerning the World Health Organization was referred to C&R. **HB 2258** by Rep. Bowers as amended, which would extend the existing pilot relative caregiver programs for two years, was referred to FW&M. **HB 2835** by Rep. Armstrong, which would prohibit discrimination by HMOs against podiatrists who are practicing within the scope of their license, was referred to C&R.

HB 2450 by Rep. Shepard was re-referred to the Health Access Subcommittee. HB 2507 by Rep. Briley was taken off notice. The remaining bills on the calendar were rolled by the respective sponsors: HB 2412 by Rep. Arriola, HB 2911 by Rep. Overbey, HB 3043 by Rep. Shepard, and HB 3203 by Rep. McMillan.

The **Ad Hoc Committee on Childcare** met Monday, April 1st. Most of the committee time was devoted to public testimony from representatives of the childcare industry. In addition, two bills (both with proposed amendments that rewrite the bills) were presented by the respective sponsors: HB 2242 by Rep. Buck and HB 2533 by Rep. Black.

The **Human Services and Mental Health Subcommittee** is closed subject to the call of the Chair. The **Health Access Subcommittee** did not have bills on notice and did not meet.

Five bills were on notice for the **final calendar** of the **Health Subcommittee** Wednesday morning. **HB 2273** by Rep. Cooper as amended, which would create a joint study committee to study licensure for surgical technologists, was referred to full committee. **HB 2429** by Rep. Odom as amended, which would create the designation of "advanced practice nurse," was referred to full committee. **HB 2939** by Rep. Montgomery concerning "hair wrapping" was discussed at length, several amendments were offered but not adopted, and the printed bill ultimately passed out to full committee. HB 2472 and HB 2473 by Rep. J. DeBerry were taken off notice.

Judiciary

Paige Edwards

On Tuesday, the **Civil Procedure & Practice Subcommittee** held its final regular meeting to consider

27 bills. HB 2184 by Representative Kernell, HB 1001 by Representative Bowers, HB 2923 by Representative J. DeBerry, and HB 2959 by Representative Rinks were taken off notice. HB 2185 by Representative Overbey and HB 2922 by Representative Stanley were sent to the summer study committee.

The following bills were sent to the full committee:

- **HB 388** by Representative White, as amended, authorizes the court to issue an immediate writ of possession against a tenant if such tenant damages the rented premises or poses a substantial threat to the rented premises. The tenant would not be prohibited from the right to appeal. Also, this bill revises the law relating to criminal trespass by a former tenant.
- **HB 2154** by Representative Buck, as amended, establishes the maximum rate that non-indigent patients may be charged for copies of medical records. Not more than \$20.00 may be charged for the first 40 pages and 25 cents would be charged for each page that is copied after the first 40 pages. The patient would be charged the actual cost of mailing. The cost limits would apply to third parties that provide copies of medical records and related services. The provisions of this bill would not apply to a claim or appeal under the Social Security Act.
- **HB 2332** by Representative Buck, as amended, clarifies that an owner of a private airstrip would not owe a duty of care to an individual who lands an airplane on such airstrip during an emergency situation. The owner of the airstrip would be liable for gross negligence and willful or wanton conduct. The intent of this bill is to encourage private airstrip owners to register with the FAA.
- **HB 102** by Representative Buck, as amended, clarifies the procedure for serving an application for homestead rights.
- **HB 2570** by Representative Buck, as amended, updates the fees for serving process. This bill will be heard with HB 560 by Representative Boyer in the full committee.
- **HB 2651** by Representative Turner (Hamilton), as amended, includes promotion of prostitution and patronizing prostitution in the definition of a nuisance. Also, this bill specifies that vehicles used in the commission of a second or subsequent offense for patronizing or promoting prostitution would be subject to seizure and forfeiture. All money received from the forfeitures would be paid equally into the general fund of the state and the general fund of the seizing political subdivision.
- **HB 2231** by Representative L. DeBerry, as amended, clarifies that a financial sponsor would not be liable for personal injury or property damage arising at a

charitable fundraising event. This bill addresses a situation that arose in Shelby County.

- **HB 2845** by Representative Chumney established a mental health court in Shelby County. This bill was sent to the full committee with the understanding that Representative Chumney will provide an amendment.
- **HB 2431** by Representative Brown, as amended, adds disruptions in a court proceeding to the list of situations that government entities would be immune from suit.

The **Civil Procedure & Practice Subcommittee** will meet next Tuesday, April 9, 2002 only to consider bills that were not heard on this week's calendar. Next week's calendar will include the following bills: HB 2194 by Representative Bunch, HB 2498 by Representative Bunch, HB 2198 by Representative Bunch, HB 3160 by Representative Bunch, HB 2195 by Representative Bunch, HB 3027 by Representative Kiser, HB 2591 by Representative West, HB 2601 by Representative West, HB 2699 by Representative Scroggs, HB 3170 by Representative McMillan, HB 3171 by Representative McMillan, and HB 2529 by Representative McMillan. No other bills will be put on notice.

On Wednesday, the **Criminal Procedure & Practice Subcommittee** met to consider six bills. HB 2214 and HB 2215 by Representative Scroggs were taken off notice.

The following two bills were sent to the full committee:

- **HB 2112** by Representative Scroggs allows the introduction into evidence the past conviction of a sex offender of a sex offense where the victim at the time was under 13 years old, if in the current case the victim is less than 13 years old. The provisions of this bill would be subject to Tennessee Rule of Evidence 403.
- **HB 3038** by U. Jones (Shelby) requires persons convicted of patronizing a prostitute to submit to and pay for an HIV test.

The **Criminal Procedure & Practice Subcommittee** plans to hold one more meeting on Thursday, April 4, 2002 to discuss HB 2545 and HB 3232 by Representative Kiser. These bills relate to Homeland Security. These bills will be discussed in next week's research review.

Full Judiciary Committee

On Wednesday, the **Judiciary Committee** met to consider 32 bills. HB 402 by Representative Chumney, HB 2885 by Representative Ford, HB 2924 by Representative Lewis, HB 1636 by Representative Sargent, HB 2924 by

Representative J. DeBerry, HB 1876 by Representative Towns, and HB1884 by Representative Towns were rolled for two weeks. HB 3189 by Representative Hargrove, HB 2389 by Representative Bunch, HB 2675 by Representative Miller, HB 3125 by Representative Armstrong, HB 560 by Representative Boyer, HB 3109 by Representative Boyer, HB 2888 by Representative Scroggs, HB 2989 by Representative Scroggs, HB 3144 by Representative Fowlkes, HB 2510 by Representative Briley, HB 2513 by Representative Briley, HB 2933 by Representative Briley, and HB 2576 by Representative Buck were rolled for one week.

The following 11 bills were sent to **Calendar & Rules**:

- **HB 3132** by Representative White, as amended, relates to court information and reporting. This bill clarifies how cases should be counted in compiling data that is reported by the clerks of the courts to the Administrative Office of the Courts. Also, the \$2.00 data entry fee would be allocated to update the process for reporting the data.
- **HB 2669** by Representative U. Jones (Shelby) clarifies that underage driving while impaired offenses that are committed by individuals between that ages of 18 and 21 would qualify for pre-trial diversion. Also, this bill clarifies that a judge may suspend the fine or punishment for underage driving while impaired offenses committed by a person between the ages of 16 and 18.
- **HB 3184** by Representative Maddox requires the TBI, Board of Pharmacy, and Board of Medical Examiners to report on and make recommendations concerning abuse of the prescription drug, Oxycontin. The report would be given to the house health and human resources committee and the senate general welfare, health and human resources committee.
- **HB 2622** by Representative Odom, as amended, authorizes the state, a county, or a municipality to post a sign that warns individuals of the criminal consequences for stealing any portion of a stone or rock wall.
- **HB 2778** by Representative Odom, as amended, requires the circuit court to grant certiorari in order to hear appeals from certain decisions made by a board or commission. Specifically, the circuit court would hear appeals from decisions to revoke, suspend, or deny a license or permit that is required prior to engaging in conduct that is protected by the First Amendment to the United States Constitution.
- **HB 2334** by Representative Wood, as amended, creates the "Educational Records as Evidence Act" to establish the process to subpoena student educational records.

- **HB 2394** by Representative Kent, as amended, excludes misdemeanor traffic violators and misdemeanor violators of the proof of financial responsibility law from receiving a citation to appear in court in lieu of continued custody and taking of the arrested person before a magistrate. These violators would be given a traffic citation.
- **HB 2941** by Representative Briley, as amended, authorizes optometrists and podiatrists to form and own shares in the same professional corporation or limited liability company. Similar legislation has been adopted in 15 states.
- **HB 3020** by Representative Buck, as amended, adds county magistrates to the list of individuals who may carry or possess a weapon by virtue of their position. Also, this bill authorizes a county magistrate to carry a handgun upon successful completion of firearms training.
- **HB 1201** by Representative Buck, as amended, clarifies that only one tax would be imposed per bail bond for all charges that arise from the same criminal conduct or criminal episode.
- **HB 3119** by Representative Buck clarifies that any court of record with probate jurisdiction would have concurrent jurisdiction with the circuit court to hear cases regarding the validity of wills. Also, this bill clarifies the procedure for contesting a will.

State & Local Government

Lawrence Hall, Jr.

This week, the **State and Local Government** full committee passed **HB 1816** by Rep. Kernell to Finance, Ways, and Means. This bill creates the "Family Visitation and Crime Reduction Act." This act requires the Department of Correction to make the necessary changes to make inmate visitation more suitable to accommodate families, especially children. The department is also charged with developing specific rules regarding the revocation of visitation. **HB 2954**, by Rep. Rinks, was passed to Finance, Ways, and Means. This bill allows municipalities that operate electric plants to also provide cable services to their service area. **HB 2677**, by Rep. L. Miller, increases election workers' minimum compensation for election day work from \$15.00 to \$25.00. The bill passed to Calendar and Rules. **HB 2678**, also by Rep. L. Miller, passed to Calendar and Rules. This bill will

require the state election coordinator to make rules to govern standards for nonpartisan voter education.

State Government Subcommittee held its last meeting this week. Among the bills that passed to full committee, was **HB 2629** by Rep. Brown. As amended, it will create a study committee to research the issue regarding release eligibility dates for convicted felons. **HB 2553**, by Rep. Clem, was passed to full committee. This bill, as amended, will allow local governments to use the internet as an additional means to provide the required notice of government meetings to the public. **HB 2189**, by Rep. Windle, will make the salary of commercial vehicle enforcement officers equivalent to the salary of a commissioned member of the highway patrol. This bill also passed to full committee.

Local Government Subcommittee also held its final meeting this week. The subcommittee passed **HB 1056**, by Rep. Cole of Dyer County, to full committee. This bill will allow utility districts, electric cooperatives, and municipal electric systems to enter into the propane gas business. **HB 2342**, by Rep. Scroggs, will increase the income level from \$10,500 to \$15,000 for eligibility for property tax relief for elderly and disabled homeowners. This bill also passed to full committee. **HB 2967**, by Rep. Bunch, was sent to full committee. It will make the actual sales price of property the determining factor when setting the value of property for tax recordation purposes. **HB 2183**, by Rep. Kent, goes to full. As amended, it will extend the time that the Alcoholic Beverage Commission may issue a temporary server permit to a period of 61 days.

The **Elections Subcommittee** is closed.

Transportation

Greg E. Adkins

The full **Transportation Committee** met on Wednesday, April 3, 2002 and considered eight bills. **HB 3086** by Rep. Clem was taken off notice. **HB 3186** by Rep. Maddox was rolled one week. The following sign bills passed to FW&M:

1. **HB 2193** by Rep. Bunch-- "Captain James S. Varnell, Jr. Bridge" sign.
 2. **HB 2970** by Rep. Tidwell-- "Louish B. Thompson Bridge" sign.
- SJR 510** by Rep. Newton passed to C&R; the resolution expresses concern for teenage in-vehicle drinking and drug use and urges the state and local governments to use

preventive strategies. **HB 2375** by Rep. Hood passed to C&R. The bill would allow antique car owners to display the year of the model of the antique on the license plate. **HB 1247** by Rep. Head passed to FW&M as amended. The amended bill creates a special "vehicle preparation tag" for entities that test cars within a twenty-mile radius of a business. . **HJR 704** Rep. Ridgeway expresses appreciation to the Tennessee Congressional Delegation for securing ten million in section 5309 public bus and rail funding. The bill also urges the delegation to secure funding for the 2002-2003 fiscal year.

The **Transportation and Safety Planning Subcommittee** met on Wednesday, March 27, 2002 and considered seven bills. The following bills were rolled one week: **HB 1893** by Rep. Head, **HB 2796** by Rep. Ridgeway, **HB 3129** by Rep. Ridgeway, and **HB 2354** by Rep. Maddox. **HB 2676** by Rep. Miller passed to full committee; the bill authorizes the issuance of "Proud To Be An American" new specialty earmarked license plates. **HB 2393** by Rep. Kent passed to full committee as amended. The amended bill only applies to Shelby County and allows police technicians to write traffic tickets instead of only police. **HB 2246** by Rep. Sharp passed to full committee as amended; the amended bill would require TDOT to minimize the impacts from highway traffic noise in noise-sensitive areas.

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*Summaries of Recent
Budget Hearings
Are On The Following Pages.*

Budget Hearings
House Finance, Ways & Means Committee

Dept. of Correction • Dept. of Commerce & Insurance - March 26th

Office of the Attorney General & Reporter - March 28th

The Administrative Office of the Courts - March 28th

Tennessee District Attorneys General Conference - March 28th

District Public Defenders Conference - March 28th

Department of Correction

Tuesday, March 19, 2002

Lawrence Hall, Jr.

On March 26, 2002, Commissioner Donal Campbell of the Department of Correction presented the department's 2002-2003 budget request to the House Finance, Ways, and Means committee. The commissioner started by stating the mission of the department which states, "The mission.....of the Tennessee Department of Corrections is to ensure the safety of the public through supervision of convicted felons utilizing correctional practices which contribute to the effectiveness of the criminal justice system at the most efficient cost to the taxpayer". The commissioner further testified that, "...the department uses 91.5% of the state appropriated amount to fund activities that directly impact the public safety of Tennessee citizens." The department is responsible for managing 12 adult facilities as well as 2 privately operated adult facilities.

The commissioner stated that a 10% reduction as a result of the "no new revenue" scenario would have a severe impact on the department equaling about \$47,400,000. In the past the department has made major cuts totaling close to \$20,000,000 by means of closing facilities and consolidating programs. A 10% reduction in the department would possibly result in closing two of the major facilities and experiencing federal intervention.

The **total recommended 2002-2003 budget** for the Department of Corrections is **\$507,952,200**. This number represents a base total of \$504,086,500 and \$3,865,700 in department improvements. **Improvement requests** are categorized in three different areas: **capacity, operational, and personnel**. The improvement request for capacity is in the area of state prosecution totaling \$2,055,600.

Operational improvements include requests for three different facilities:

--Bushy Mountain Correctional Complex - \$100,000

--Hardeman County Correctional Center - \$622,300

--South Central Correctional Complex - \$538,100

This makes a total operational request of \$1,260,400.

Report continues on the next page...

Personnel improvement requests include additional funding for two facilities:

-Southeastern TN State Regional Correction Facility - \$83,400
-West Tennessee State Prison - \$55,500

The department is also requesting \$410,800 for administration making a total personnel improvement request of \$549,700.

Department of Commerce and Insurance

Tuesday, March 26, 2002

Chris McGrew

Commissioner Anne Pope was asked to start off with the "no new revenue" scenario. Commissioner Pope stated that last year the total budget for the department was \$61 million and 93% of that was flow through restricted federal or current service revenue. Only 7% of the department's budget is unrestricted state appropriations and funds three areas: Consumer Affairs, Fire Academy, and the Fire Fighting Commission. Due to the reductions the Department has made in the past years, any further reductions will result in the elimination of personnel. Commissioner Pope stated that the Department ranks at the bottom nationally in any type of staffing ratio.

The Commissioner gave an overview of the **proposed total budget of \$66.3 million for Fiscal year 2002-2003**. The improvement requests totals a little over \$5 million.

- \$1.4 million would go toward the opening of the new fire academy.
- \$2.3 million would go back in the budget for the firefighters pay supplement.
- \$106,900 would create two new positions in the insurance division to reduce the backlog in processing tax affidavits, etc.
- \$82,700 for the real estate commission to hire an additional auditor.
- \$309,800 to fund an additional internal auditor and analysts to assist in strengthening the internal audit and information system with the Department.

The Commissioner said the fire academy that was completed in May 2001 was sitting empty with the equipment ready to open. According to the Commissioner, it is costing the Department - and in turn the State - \$2.1 million to keep the facility closed. Commissioner Pope also stated that Tennessee ranks 3rd in the nation for fire related deaths.



Representatives from several fire departments across the state were present for the hearing.

The Office of Attorney General & Reporter

Thursday, March 28, 2002

Paige Edwards

Attorney General Paul Summers addressed the House Finance Committee on March 28, 2002.

General Summers began his remarks by responding to Chairman Kisber's request to discuss how the Attorney General's office would be affected by budget cuts with no new revenue appropriated for the upcoming fiscal year. Below the line, the Attorney General's Office would have to decrease operating expenses such as travel, training for employees, computer upgrades, and providing expert witnesses or outside counsel for the litigation of pending cases. Above the line, the Attorney General's Office would not fill vacancies. At this time, there are 17 vacant attorney positions and 35 non-lawyer vacancies. General Summers stated that the work at the Attorney General's Office would be prioritized. The top priority would be to defend the state in any suits that are filed. Second, the Attorney General would determine who to advise and how prompt to advise those individuals or entities. In effect, budget cuts would hinder the Attorney General's ability to efficiently handle the 12,000 cases that are pending at this time.

Chairman Kisber asked General Summers if the state would be subject to more suits because of funding reductions in government programs or elimination of government programs. General Summers stated that the state would be subjected to more litigation if money for government programs were cut, especially in the areas of human services, children's services, mental health services and TennCare.

Representative Rinks asked General Summers two questions regarding the budget. First, Representative Rinks asked General Summers what would happen if a budget could not be passed this year. General Summers responded that the Tennessee Constitution requires a balanced budget for each fiscal year. Furthermore, if this situation were to occur, there would be no doubt that a lawsuit would be filed against the legislature on July 1 to challenge the constitutionality of the budget. Second, Representative Rinks asked General Summers if the Tennessee Supreme Court could require the legislature to raise taxes. General Summers stated that the Tennessee Supreme Court would not attempt to prescribe how to raise taxes, but the court would order the legislature to balance the budget by a certain date.

Representative Cole (Carter) asked General Summers if an income tax was constitutional. General Summers responded that the income tax could be defended. Also, General Summers added that the Tennessee Court of Appeals upheld that the professional privilege tax was constitutional.

General Summers provided a written proposal for improvement requests for the 2002-2003 fiscal year. Four requests were made. However, the not all of the requests have been included in the Governor's Recommended Budget for FY 2002-03. The Attorney General's Office **total budget request for FY 2002-03 is \$24.9 million.**

First, the Attorney General's Office requests six additional attorney positions and two additional paralegal positions to handle the escalating workload for class action suits, criminal appeals, capital cases, health care services cases, TennCare cases, environmental cases, consumer cases, securities cases, and public corruption cases. The cost of the requested positions would be \$687,600.

Second, the Attorney General's Office requests \$200,000 in security improvements to pay for a x-ray machine and for two trained security guards to screen visitors. The security improvements are needed to restrict access to the staff and provide security to the building.

Third, the Attorney General's Office requests \$310,300 to fund additional rental space in the John Sevier Building. The rental space is needed to relieve overcrowding in the existing Attorney General's Office. This funding request is included in the Governor's miscellaneous appropriations budget request.

Fourth, an increase in the Attorney General's salary is requested. The estimated cost is \$3,900. This improvement request is included in the Governor's budget.

Administrative Office of the Courts

Thursday, March 28, 2002

Paige Edwards

Ms. Connie Clark, director of the Administrative Office of the Courts (AOC), addressed the House Finance Committee on March 28, 2002.

Ms. Clark began her remarks by responding to Chairman Kisber's request to discuss how the AOC would be affected by budget cuts with no new revenue appropriated for the upcoming year. Ms. Clark stated that a 10 percent cut would result in a loss of over \$7 million to the AOC. Ms. Clark stated that budget cuts would eliminate one-third of the AOC staff and one-third of the appellate court clerk staff. Also, the budget cuts would eliminate child support referees. Likewise, the number of court reporters and competent attorneys would be cut. Ms. Clark emphasized that budget cuts would affect the AOC's ability to collect records for reports that are legislatively mandated. In conclusion, Ms. Clark stated that the AOC could function with budget cuts, but the judicial process would become slower.

Ms. Clark provided the House Finance Committee with a written proposal for the **recommended budget** for the court system. The **proposal totals \$79,113,100** that is comprised of **\$75,739,200 in state appropriations**, \$200,000 in federal revenue, and \$3,173,900 interdepartmental revenue. Also, the AOC requests the following improvements:

- Judges mandated salary increase of 2.8% as required by T.C.A. 8-23-103 \$656,400
- TJIS-General Sessions reporting requirement \$871,000
This provides funding for personnel needed to collect and report caseload statistics from general sessions courts, as required by Public Acts of 2001, Public Chapter 408.
- Court reporter program enhancements \$300,000
This provides additional funding to increase transcript and per diem rates to court reporters in order to make the courts more competitive with current market rates and those paid by other state agencies.
- General Sessions Judges Conference \$ 22,400
- State Court Clerks Conference \$ 15,000
These provide additional funding from dedicated litigation tax revenues for educational programs in the State Court Clerks' Conference and the General Sessions Judges' Conference, as provided by T.C.A. 67-4-606(6) and T.C.A. 16-15-5007, respectively. This will more closely align appropriations with actual revenue collections.



District Public Defenders Conference • District Attorneys General Conference

Thursday, March 28, 2002

Shannon Romain

The Finance, Ways and Means committee concluded its budget hearings last week. The District Public Defenders Conference and the District Attorneys General Conference were the last two agencies to testify before the committee.

The District Public Defenders Conference reported that a reduction in funding would result in a "public safety issue". A 5-10% reduction would mean \$2.2 - \$4.5 million dollars in budgetary cuts and a loss of approximately 18 assistant public defenders and 24 investigators.

It would also result in additional expenditures by the state. A unique statutory safety valve requires the courts to appoint new cases to private attorneys when the Public Defenders Conference determines that it is unable to handle additional caseloads. The agency estimates that it costs the state an additional \$320 per case to transfer cases to private attorneys.

The following is an overview of the FY2002- 2003 budget request of the District Public Defenders Conference.

Description	State	Current services	County revenue	Total	Positions
Base budget	\$24,998,700	\$150,000	\$85,000	\$25,233,700	293

Recommended Improvements					
Statutorily required Step Raises for Asst. Public Defender and Investigators	\$343,900			\$343,900	
Existing staff: Funding for the retention of special drug defenders formerly funded by federal grants <i>Note: the Public Defenders office is currently seeking alternative funding to replace the grant which is due to expire in June 2002</i>	\$121,400			\$121,400	2
Information Systems:	\$359,300			\$359,300	
Total Recommended Improvements	\$824,600	\$0		\$824,600	2
Total Recommended Budget	\$25,823,300	\$150,000	\$85,000	\$26,058,300	295

Unfunded Improvements

Weighted Caseload Study Staffing Recommendations – Funds requested to fully fund the Asst. Public Defender staffing recommended in the Judicial Weighted Caseload Study plus related positions. Conference positions include 42 Asst. Public Defenders, 6 investigators and 7 legal secretaries. Funding is also included for 6 Public Defenders in Shelby County and 9 in Davidson County.	\$3,945,200			\$3,945,200	55
Total Unfunded Improvement	\$3,945,200	\$0		\$3,945,200	55

The District Attorneys General Conference testified that a reduction in funding would also have a negative impact on their agency. A 10% cut would mean a loss of \$3.7 million dollars, 39 Assistant District Attorneys and 13 staff members, and would further jeopardize the Weighted Caseload system.

Inadequate staffing is one of the most critical effects of inadequate funding and additional cuts, and it has had a negative impact on several of the agency's key functions. The agency reported a current shortfall of 142 District Attorneys. No new attorneys have been hired since 1996 although case workloads continue to increase. There is a greater demand to have a prosecutor available for delinquency hearings in juvenile courts, and judicial districts are furnishing prosecutors on an "as needed" base for serious felony charges. With the implementation of the Victims Rights constitutional amendment, the current workload has increased substantially as a result of the additional notification, correspondence and case tracking, however, additional staff has not been authorized under new laws. And although child support collections have increased, collections have slowed and morale has dropped because the agency is unable to reward workers who have assumed additional workloads.

The following is an overview of the FY2002-2003 budget Request as recommended in the Governor's budget:

Code	Division	Base	Improvement	Notes
304.01	District Attorneys General	\$42,169,300	\$2,275,700	
	State \$	40,941,400	2,268,100	
	Federal \$	0	0	
	County \$	110,000	0	
	Current Services \$	147,600	1,400	HIDTA program
	Interdepartmental \$	970,300	6,200	Econ. Crime, etc
	Positions:	521	28	2 Part-time
304.05	DAG Conference	\$298,600	\$0	
	State \$	208,600	0	
	Federal \$	0	0	
	County \$	0	0	
	Current Services \$	22,000	0	Registration fee
	Interdepartmental \$	68,000	0	Registration fee
	Positions:	0	0	
304.10	Executive Director	\$1,070,000	\$76,400	
	State \$	973,400	76,400	
	Federal \$	0	0	
	County \$	0	0	
	Current Services \$	0	0	
	Interdepartmental \$	96,600	0	IV-D Admin.
	Positions:	16	1	
304.15	IV-D Child Support Enforcement	\$10,716,800	\$59,200	
	State \$	0	0	
	Federal \$	0	0	
	County \$	0	0	
	Current Services \$	2,500	0	Registration Fees
	Interdepartmental \$	10,714,300	59,200	From DHS
	Positions:	239	0	

The agency receives grants totaling \$3.7 million from the Office of Criminal Justice Programs within the Department of Finance and Administration which are not reflected in the FY2003 budget. During reconciliation of the appropriations budget, the grants will be added back to the agency's budget.

The following are improvements that were requested but not funded in the Governor's budget:

- \$266,900 to cover the cost of an Information Plan System and two additional maintenance staff positions.
- \$10,595,800 to fully fund the Weighted Caseload Study
- \$145,500 for to lease office space
- \$100,000 for operational funding of the Big Four districts. ##